

March 3, 2022

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: Notice of Ex Parte Communication; MB Docket Nos. 17-105, 20-401, and 98-204;
RM-11854; MD Docket No. 21-190; EB Docket Nos. 06-119 and 04-296

Dear Ms. Dortch:

On March 1, 2022, a group of approximately forty broadcasters, Larry Walke and the undersigned, both of the National Association of Broadcasters (NAB), participated in a series of meetings with FCC Commissioners and staff to discuss various issues in the above-docketed proceedings (see attached list of industry participants). This group consisted of owners, general managers, and other senior executives from a broad range of television and radio stations from across the United States, including large and small companies and stations located in urban, suburban, and rural markets. The group met with the following FCC representatives: Commissioner Brendan Carr and Ben Arden, Chief of Staff and Legal Advisor to Commissioner Carr; Commissioner Nathan Simington and Adam Cassady, Media Advisor to Commissioner Simington; Holly Saurer, Acting Legal Advisor to Chairwoman Jessica Rosenworcel and Chief of the Media Bureau; Diane Holland, Legal Advisor to Commissioner Geoffrey Starks; and Debra Jordan, Chief of the Public Safety and Homeland Security Bureau (PSHSB), and Nicole McGinnis, Deputy Chief of PSHSB.

NAB was pleased to facilitate these meetings, which allowed the FCC participants to speak directly with experienced local broadcasters about the issues described below.

Regulatory Fees. The broadcasters described the ongoing impact of the Commission's outdated and unlawful regulatory fee process on their ability to effectively serve their communities. The group acknowledged broadcasters' responsibility to pay their fair share of the Commission's activities related to broadcasting. However, the FCC's pin-the-tail-on-the-donkey methodology for allocating the fees based on the number of employees in certain bureaus forces broadcasters to shoulder an inequitable and unjustified percentage of fees related to FCC activities that have nothing to do with broadcasting. For example, in 2021, broadcasters paid millions of dollars for the Commission to oversee the administration of the Universal Service Fund (USF) and nearly 20% of the FCC's broadband-related costs. Broadcasters also paid a large amount towards the activities of FCC bureaus and offices that spend comparatively little time on broadcast issues, such as the Consumer and Governmental Affairs Bureau, the Office of Engineering and Technology, and the Office of Economics and Analytics.

The group stated that it is especially galling that Big Tech and broadband providers pay

no regulatory fees, even though these companies benefit substantially from FCC activities and frequently push the Commission to undertake time-consuming projects, including proposals that would harm broadcasting.¹

The group also described the financial stress imposed by regulatory fees, given that, unlike other regulated entities, broadcasters cannot pass through the fees to consumers. One broadcaster stated that, if online radio streaming continues to grow, a tipping point will come where the regulatory fees and other costs to run a station may cause a broadcaster to give up their FCC license. The broadcast group characterized the FCC's regulatory fee system as essentially broken and pledged to work with the FCC on a more equitable, accurate approach that better reflects the FCC's current priorities and activities.

Program Origination on FM Boosters.

The broadcasters in attendance explained that, at first glance, GeoBroadcast Solutions's (GBS) request for a rule change to allow program origination on FM boosters seemed worthy of consideration. However, upon further review, it became clear to stations groups big and small, representing communities from across nearly the entire country, that authorizing GBS's ZoneCasting system could be devastating for radio broadcasters, regardless of whether a radio station intended to use the system. They stated that approving GBS's request would undermine radio's main advantage over other outlets, namely, its reach, and only truly benefit GBS itself as the sole proprietor of the technology.

The industry group possesses vast, hands-on expertise regarding every facet of broadcast advertising sales, and all agreed that approving GBS's request would hand way too much leverage to ad buyers and ad agencies. First, the option to buy cheaper, zoned ads would place artificial downward pressure on all ad rates, including ads sold by stations opting not to use GBS's system. Although using GBS's system would be voluntary, the group forecasts that sales of cheaper, geotargeted ads by some stations would force other stations to reduce rates for market-wide ads to survive. The result would be a race to the bottom of ad rates that would hinder their ability to produce quality content. Thus, the voluntary nature of GBS's proposal is no consolation.

Second, the group noted the painfully obvious fact that the ZoneCasting system would roll the red carpet out for advertisers seeking to redline geotargeted ads away from less affluent neighborhoods, and for a lesser price. Broadcasters would have no viable recourse against ad buyers interested in such arrangements. The broadcasters also noted that ZoneCasting would disadvantage smaller and minority-owned stations because larger stations could more easily absorb the lower rates for zoned ads, and the costs to implement ZoneCasting, such as GBS's licensing fees and ad revenue-share.

¹ Reply Comments of NAB at 8-15, MD 21-190 (Nov. 5, 2021) (explaining the FCC's statutory authority – and obligation – to expand its regulatory fee base).

Finally, broadcasters expressed concern that ZoneCasting will cause interference as listeners in cars cross from one booster to another. Although such interference would be self-inflicted on the station choosing to use ZoneCasting, this broadcaster stated that any signal degradation would reflect badly on FM radio service and cause listeners to switch to Spotify or Sirius XM. Another broadcaster noted that ZoneCasting could impact the delivery of EAS warnings. For all these reasons, the group asked the FCC to immediately close this proceeding.

Equal Employment Opportunity. The group emphasized that they share the FCC’s goal to improve employment diversity in the broadcasting industry. They explained, however, that reinstating the FCC’s Annual Employment Report (FCC Form 395-B) and collecting data on the racial composition of their workforce would do nothing to help achieve this aim, and in fact, could distract the FCC and industry from more effective actions.

Several broadcasters described the hurdles they face in trying to attract a diverse pool of qualified job candidates, or for that matter, *any* pool of qualified applicants. In their recent experience, many job applicants – regardless of race, ethnicity, or gender – are more interested in working for one of the Big Tech companies or some other outlet they perceive as more relevant or cutting-edge, and that typically can afford to pay higher salaries.

The group urged the FCC to help industry address these real-world challenges through joint initiatives to boost interest in working at radio and television stations. Broadcasters already do everything in their power to attract and retain diverse talent, but support from the FCC would be vital. The broadcasters agreed that imposing yet another government data collection would be an ineffective use of everyone’s time, especially when compared to more concrete efforts the FCC and industry could jointly undertake that might actually improve employment diversity.

Multilingual Emergency Information. Broadcasters highlighted several problems raised by a pending proposal regarding multilingual emergency information that is under consideration by PSHSB.² As NAB understands it, the Bureau is looking to formalize a process in which radio stations would partner with a non-English station in their market and step in to provide ongoing news in the target language during an emergency if the non-English station is knocked off the air as a result of the emergency situation.

Although well-intentioned, the broadcast group explained that this so-called “designated hitter” proposal is an ill-conceived, overly bureaucratic solution in search of a problem. First, the proposal focuses on the wrong issue. Before “encouraging” broadcasters (whose

² The broadcast group did not discuss the previous three issues with the PSHSB staff, and were grateful for the thorough review of the Bureau’s current priorities and projects provided by Chief Jordan and Deputy Chief McGinnis.

licenses are controlled by the FCC) to turn some of their precious airtime during an emergency over to another station or broadcast in another language, the FCC should first try to help any potentially at-risk non-English radio stations improve their own resiliency. For example, the FCC should encourage such stations to obtain a generator and fuel reserves so they can continue service if the power grid goes down.³ This would much more effectively address any concerns about the access of listeners to such stations to information during emergencies.⁴ NAB stands ready to work with the FCC on best practices and other emergency preparedness tools that could help potentially at-risk foreign-language stations help themselves.

Second, the proposal is unrealistic to anyone who has ever worked at a radio station. For instance, would listeners even pay attention to periodic announcements that a station might broadcast in another language during emergencies, and how would listeners react if they turn on a station only to hear programming in a foreign language? The broadcast group stated that many listeners would simply change the channel and not return, losing trust in the station. Even more troubling, does the FCC actually expect a foreign language station to publicize the possibility that it will go down during an emergency, and if it does, encourage listeners to switch over to an English-speaking competitor down the dial? It is hard to believe that any foreign language station would voluntarily announce to the world that it is unprepared for disaster – especially if located in a hurricane-prone area – and risk its audience’s trust for such an unlikely scenario. One broadcaster who oversees multiple Spanish broadcast stations in the Midwest agreed, stating that his stations take steps to prepare in advance for disasters.

Finally, the proposal ignores the long tradition of broadcasters banding together to help a station in need restore operations during an emergency. State broadcasting associations already provide critical help during emergencies, collecting status reports and coordinating emergency resources as needed. Instead of pursuing this unnecessary proposal, the FCC should support the efforts of these industry experts and encourage potentially at-risk foreign-language stations to better utilize their services, especially before disaster strikes. This approach would most effectively address the underlying problem of a broadcaster’s resiliency.

³ As an aside, NAB notes that a station’s ability to stay on the air during emergencies depends solely on its resources and commitment to resiliency, and is completely irrelevant to a station’s format.

⁴ We are reminded of the proverb: “Give a man a fish and you feed him for a day. Teach him how to fish, and you feed him for a lifetime.”

Please do not hesitate to contact the undersigned with any further questions.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right.

Rick Kaplan
Chief Legal Officer and Executive Vice President
Legal and Regulatory Affairs
National Association of Broadcaster

List of Broadcasting Industry Participants

Colleen Valkour, Market President, iHeart Media (WI)
Dave Arland, Executive Director, Indiana Broadcasters Association (IN)
Scott Uecker, General Manager, WICR-FM, University of Indianapolis (IN)
Dom Mancuso, Vice President/General Manager, Nexstar, Fox 59/CBS 4 (IN)
Matt Minich, Chief Executive Office, North American Broadcasting Company (OH)
Scott Johnson, Attorney, Smithwick & Belendiuk (DC)
Christina Merritt, President, Ohio Association of Broadcasters (OH)
Carolyn Cassidy, General Manager, Salem Media of Ohio (OH)
Kathleen Choal, Vice President/General Manager, EW Scripps, KSHB-TV (MO)
Susan Wrons, New Mexico Broadcasters Association (NM)
Bob Houghton, President, Georgia Association of Broadcasters (GA)
Wendy Paulson, President, Minnesota Broadcasters Association (MN)
Paul Gleiser, President, ATW Media, KTBB Radio (TX)
Bob Leighton, Chief Executive Officer, Leighton Broadcasting (MN)
Dean Littleton, Vice President/General Manager, EW Scripps (CO)
Wendy Mays, Executive Director, Vermont Association of Broadcasters (VT)
Dave Abel, President/General Manager, Hearst, WMTW (ME)
Corey Garrison, Program Director, Bennett Radio Group (ME)
Oscar Rodriguez, Vice President/Station Manager, Univision Media Vista Group (MN)
John Zimmer, President, Zimmer Communications (MO)
Jamie Hartnett, Executive Director, Hawaii Association of Broadcasters (HI)
Sandra Zoldowski, Vice President/General Manager, Nexstar Media (CO)
Pete Benedetti, President/CEO, AlwaysMountainTime LLC (CO)
Bob Singer, President, Oregon Association of Broadcasters (OR)
Lisa Decker, SVP/Market Manager, Alpha Media (OR)
Matt McCormick, Co-managing Partner, Fletcher Heald & Hildreth (VA)
Brian Shirey, Owner/President, Northshore Broadcasting (LA)
Polly Prince Johnson, CEO, Louisiana Association of Broadcasters (LA)
Terry Stevenson, Vice President, Seehafer Broadcasting (WI)
Michelle Vetterkind, President/CEO, Wisconsin Broadcasters Association (WI)
Kyle Geissler, Director of Operations, Wisconsin Broadcasters Association (WI)
Mike Smith, Vice President, WRFV-TV (WI)
Scott Shigley, Vice President/General Manager, Liggett Communications (MI)
Sam Klemet, President, Michigan Association of Broadcasters (MI)
Joe Berry, President, California Broadcasters Association (CA)
Anna Engelhart, Vice President/General Manager, WKOW (WI)
Vance Johnson, President, Oklahoma Association of Broadcasters (OK)
Will Payne, General Manager, Payne Media Group (OK)
Patrick McFadden, Deputy General Counsel, NAB
Alison Neplokh, Vice President, NAB